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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/692,987	10/24/2003	Gary J. Oswald	CS23136RL	1738

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EXAMINER

RAMAKRISHNAIAH, MELUR

ART UNIT PAPER NUMBER

2614

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Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	Application No. 10/692,987	Applicant(s) OSWALD ET AL.	
	Examiner Melur Ramakrishnaiah	Art Unit 2614	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 03 June 2006.
- 2a) ☒ This action is **FINAL**.                      2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-21 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-21 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \*    c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- |  |   |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892)   | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)   | 5) <input type="checkbox"/> Notice of Informal Patent Application                       |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)<br>Paper No(s)/Mail Date <u>3-24-03/3-22-05</u> . | 6) <input type="checkbox"/> Other: _____  |

***Claim Rejections - 35 USC § 112***

1. The following is a quotation of the first paragraph of 35 U.S.C. 112:

The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

2. Claims 1-21 are rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the enablement requirement. The claim(s) contains subject matter, which was not described in the specification in such a way as to enable one skilled in the art to which it pertains, or with which it is most nearly connected, to make and/or use the invention. For example independent claims 1, 9, 17 all have limitations such as detecting incoming call, determining whether incoming call is a video telephony call. The specification does not explain how it is determined that incoming call is a video telephony call.

Dependent claims 8 and 16 have limitations such as determining whether the incoming call is a multimedia message service call, playing multimedia message included the incoming call upon completing the incoming call. Again applicant's specification does not explain how it is determined whether the incoming call is a multimedia message service call, playing multimedia message included the incoming call upon completing the incoming call.

***Claim Rejections - 35 USC § 103***

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the

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invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

4. Claims 1, 3-5, 5, 9, 11-13, 17-18, 20, are rejected under 35 U.S.C. 103(a) as being unpatentable over Matsumura (EP1026895A1) in view of Kosaka (JP02000124993A).

Regarding claims 1 and 9, Matsumura discloses a method in a wireless portable communication device having a video telephony communication capability for responding to an incoming call, the method comprising: detecting an incoming call, determining whether the incoming call is a video telephony call, configuring the wireless portable communication device for video telephony communication upon determining the incoming call is a video telephony call, completing the incoming call, and processing the incoming call as a video telephony call completing the incoming call and processing the incoming call as video telephony call (figs. 1-2, paragraphs: 0015-0024).

Regarding claim 17, Matsumura a wireless portable communication device having a video telephony communication capability comprising: a video telephony call detector (12, fig. 1) configured to determine whether an incoming call is a video telephony call, a video telephony communication module (20/30, fig. 1) coupled to video telephony call detector, the video telephony communication module configured to process the incoming call (figs. 1-2, paragraphs: 0015-0024).

Matsumura differs from claims 1, 9, and 18 in that he does not teach the following; receiving a single user action signal, video telephony communication enabler configured to accept an enabler input signal, enabler input signal is generated upon a

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single action performed upon wireless portable communication device and it enables process the incoming a call as a video telephony signal.

However, Kosaka discloses video telephone which teaches the following: receiving a single user action signal, video telephony communication enabler configured to accept an enabler input signal, enabler input signal is generated upon a single action performed upon wireless portable communication device and it enables process the incoming a call as a video telephony signal (fig. 1, see abstract).

Thus, it would have been obvious to one of ordinary skill in the art at the time invention was made to modify Matsumura's system to provide for the following: receiving a single user action signal, video telephony communication enabler configured to accept an enabler input signal, enabler input signal is generated upon a single action performed upon wireless portable communication device and it enables process the incoming a call as a video telephony signal as this arrangement would facilitate user control of communications to accommodate user needs as taught by Kosaka.

Regarding claims, 3-5, 11-13, 20, Matsumura does not teach the following: user action signal is generated upon actuating a key of a user interface of a wireless portable communication device, setting video and audio quality based upon pre-selected user preference, allowing the pre-selected user preference to be modified after receiving the incoming call, capturing an image by the camera, and transmitting the captured image upon receiving the activation signal, the enabler input signal is generated upon actuating a key of the plurality of keys of the key pad.

However, Kosaka teaches the following: user action signal is generated upon actuating a key of a user interface of a wireless portable communication device, setting video and audio quality based upon pre-selected user preference (for example setting low communication speed), allowing the pre-selected user preference to be modified after receiving the incoming call (for example increasing the communication speed and volume set high), capturing an image by the camera, and transmitting the captured image upon receiving the activation signal, the enabler input signal is generated upon actuating a key of the plurality of keys of the key pad (fig. 1, see abstract).

Thus, it would have been obvious to one of ordinary skill in the art at the time invention was made to modify Matsumura's system to provide for the following: user action signal is generated upon actuating a key of a user interface of a wireless portable communication device, setting video and audio quality based upon pre-selected user preference, allowing the pre-selected user preference to be modified after receiving the incoming call, capturing an image by the camera, and transmitting the captured image upon receiving the activation signal, the enabler input signal is generated upon actuating a key of the plurality of keys of the key pad as this arrangement would facilitate user control of communications to accommodate user needs as taught by Kosaka.

5. Claims 2, 10 and 19 are rejected under 35 U.S.C. 103(a) as being unpatentable over Matsumura in view of Kosaka as applied to claims 1, 17 above, and further in view of Takeuchi (JP2002044704A).

Regarding claims 2, 10 and 19, the combination teaches video telephony call detector that determines incoming call is a video telephony call (fig. 2 of '895); but it does not teach the following: the wireless portable communication device comprises first and second housings which move relative to each other between a closed position and an open position, the single user action signal is generated upon moving the first and second housings relative to each other from the closed position to the opened position.

However, Takeuchi discloses portable radio telephone which teaches the following: the wireless portable communication device comprises first and second housings which move relative to each other between a closed position and an open position, the single user action signal is generated upon moving the first and second housings relative to each other from the closed position to the opened position (fig. 1, see abstract).

Thus, it would have been obvious to one of ordinary skill in the art at the time invention was made to modify Matsumura's system to provide for the following: the wireless portable communication device comprises first and second housings which move relative to each other between a closed position and an open position, the single user action signal is generated upon moving the first and second housings relative to each other from the closed position to the opened position as this arrangement would facilitate enhancing the operability of the communication device as taught by Takeuchi.

6. Claims 6-7 and 14-15 are rejected under 35 U.S.C. 103(a) as being unpatentable over Matsumura in view of Kosaka as applied to claims 1 and 9 above, and further in view of Inkinen et al. (EP 1111921, hereinafter Inkinen).

The combination differs from claims 6-7 and 14-15 in that it does not teach the following: an external camera attached to the wireless portable communication device.

However, Inkinen discloses video conference system which teaches the following: an external camera attached to the wireless portable communication device (fig. 1, see abstract and fig. 1).

Thus, it would have been obvious to one of ordinary skill in the art at the time invention was made to modify the combination to provide for the following: an external camera attached to the wireless portable communication device as this arrangement would provide another alternative means of imaging facility as taught by Inkinen, thus providing flexibility to the user for imaging.

7. Claims 8, 16, are rejected under 35 U.S.C. 103(a) as being unpatentable over Matsumura in view of Kosaka as applied to claims 1 and 9 above, and further in view of Yonemitsu (JP406284220A).

Regarding claims 8 and 16, the combination does not teach the following: determining whether the incoming call is a multimedia message service call, and playing a multimedia message including the incoming call upon completion of the incoming call.

However, Yonemitsu discloses video telephone system and communication method for video telephone which teaches the following: determining whether the

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incoming call is a multimedia message service call, and playing a multimedia message including the incoming call upon completion of the incoming call (fig. 1, see abstract).

Thus, it would have been obvious to one of ordinary skill in the art at the time invention was made to modify the combination to provide for the following: determining whether the incoming call is a multimedia message service call, and playing a multimedia message including the incoming call upon completion of the incoming call as this arrangement would facilitate communications between users when they are not available for communications as taught by Yonemitsu.

8. Claim 21 is rejected under 35 U.S.C. 103(a) as being unpatentable over Matsumura in view of Kosaka as applied to claim 20 above, and further in view of Sato et al. (US 2004/0240434 A1, filed 7-5-2002).

Regarding claim 21, the combination does not teach the following: key pad is configured to generate a text message to be transmitted as part of the transmission communication signal, and the display is display at least one of: text message, text portion of incoming call, and captured images to be transmitted.

However, Sato discloses mobile terminal apparatus which teaches the following: key pad is configured to generate a text message to be transmitted as part of the transmission communication signal, and the display is display at least one of: text message, text portion of incoming call, and captured images to be transmitted (paragraphs: 0006-0017).

Thus, it would have been obvious to one of ordinary skill in the art at the time invention was made to modify the combination to provide for the following: key pad is

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configured to generate a text message to be transmitted as part of the transmission communication signal, and the display is display at least one of: text message, text portion of incoming call, and captured images to be transmitted as this arrangement would facilitate sending/receiving text messages including images during communication between users as taught by Sato, thus enhancing the communication potential between the users.

### ***Response to Arguments***

9. Applicant's arguments filed on 6-3-2006 have been fully considered but they are not persuasive.

35 U.S.C 112 enablement rejection of independent claims 1, 9, and 17:

Regarding rejection of independent claims 1, 9, and 17, under 35 U.S.C. 112 first paragraph because the specification does not disclose claimed feature such as for example independent claim 1 recites the limitation: detecting incoming call, determining whether the incoming call is a video telephony call, Applicant argues that Applicant's claims 1, 9, and 17 are directed towards wireless portable communication devices that are already would have "video telephone communication capability for responding to an incoming call" as recited by the preamble of Applicant's claim 1. In the background ... the devices generally capable of transmitting, receiving and communicating audio, text and video images". Further, Applicant, noted that "portable communication device such as a cellular telephone having a video capability can receive a video telephony call, and display the video portion and audio portion". Therefore, in light of Applicant's Spec, one of ordinary skill would understand how "a wireless portable communication device

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having a video telephony communication capability for responding to an incoming call” as recited in the incoming call, would “detect the incoming call” and determine whether incoming call is video telephony call”. Regarding this, despite the applicant’s rigmarole set forth above to explain claimed feature such as detecting incoming call, determining whether the incoming call is a video telephony call, applicant’s specification does not explain how this is done. In contrast to this, for example, see how Matsumura, used in the rejection of applicant’s claims, determines whether incoming call is video telephony call (paragraphs: 0018-0020). Since Applicant’s specification does not have disclosure to support claimed features such as “detect the incoming call and determine whether incoming call is video telephony call”, rejection of independent claims 1, 9, and 17 under 35 U.S.C 112 first paragraph is maintained.

Rejection of claims 1, 3-5, 5, 9, 11-13, 17-18, 20, under 35 U.S.C. 103(a) as being obvious over Matsumura (EP1026895A1) in view of Kosaka (JP02000124993A): regarding rejection of the claims, Applicant argues with respect to Matsumura reference that “The examiner has argued that Matsumura discloses the features of claim 1, including inter alia “a method in a wireless portable communication device having a video telephony communication capability ...” and “configuring the wireless portable communication device for video telephony communication ...” and “processing the incoming as a video telephony call”. And Applicant further argues that “Applicant respectfully disagrees in light of disclosure of Matsumura. Matsumura discloses a system wherein a cellular phone is connected to a separate expansion unit” and then Applicant alleges that “ Therefore, “processing the incoming call as a video telephony

call" in Matsumura is not performed by a "wireless portable communication device having a video telephone communication capability", but rather is performed by a combination of two independent devices". Contrary to applicant's interpretation of Matsumura reference, Matsumura teaches wireless portable communication device as shown in fig. 1 having a video telephone capability for responding to an incoming call which determines type of telephone call that is whether it is a voice call or video telephone call which reads on applicants claims limitations set forth in the above claims (figs. 1-2, paragraphs: 0015-0024). Regarding rejection of the above claims and referring to Kosaka reference, Applicant argues that Applicant respectfully disagrees that Kosaka discloses the single user action feature as argued by the examiner. Kosaka discloses two user actions, specifically "communications speed is set low by depressing a start key of a key operation," and ... when an image key operation part 10 is depressed and image communication is desired by the user ...". Notwithstanding applicant's interpretation of Kosaka reference, Kosaka teaches the following: "when an image key of the key operation part 10 (fig. 1) is depressed (note single user action) and image communication is desired by the user, the communication speed is set high, reception volume for hands free and transmission volume for hands free are set and implication factor of amplification in the voice processing part is set as larger than one in the voice communication mode. Note that single user action such as depression of image key of the key operation part 10 (fig. 1) configures the communication device for video communication as required by the applicants claims. Since the combination of

Matsumura and Kosaka teaches the limitation of the above claims, their rejection is maintained as set forth in the office action above.

Applicants arguments regarding dependent claims 3-5 are tied to independent claim 1 being allowable which is not as explained above.

Applicants arguments regarding dependent claims 11-13 are tied to independent claim 9 being allowable which is not as explained above.

Applicants arguments regarding dependent claims 18-20 are tied to independent claim 9 being allowable which is not as explained above.

Applicants arguments regarding rejection of dependent claim 2 is tied to independent claim 1 being allowable which is not as explained above.

Applicants arguments regarding rejection of dependent claim 10 is tied to independent claim 9 being allowable which is not as explained above.

Applicants arguments regarding rejection of dependent claim 19 is tied to independent claim 17 being allowable which is not as explained above.

Applicants arguments regarding rejection of claims 6, 7, 14 and 15 are tied to their independent claims being allowable which is not as explained above.

Applicants arguments regarding rejection of claim 21 is tied to its independent claim being allowable which is not as explained above.

In light of the above explanation, rejection of claims under 35 U.S.C 103(a) is maintained as set forth in the office action above.

**10. THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

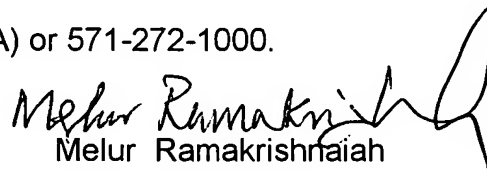
A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Melur Ramakrishnaiah whose telephone number is (571)272-8098. The examiner can normally be reached on 9 Hr schedule.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Curt Kuntz can be reached on (571) 272-7499. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Melur Ramakrishnaiah  
Primary Examiner  
Art Unit 2614